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May 16, 1994

Mr. James Quello, Chairman
Federal Communications Commission
1919 Capital M Street NW
Washington, D.C. 20554

JAMES H. QUELLO

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FEDERAL COMMUNICATIONS COMMISSION
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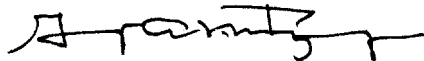
Dear Mr. Quello:

The enclosed ten copies (all original) of my Petition For Rule Making are for distribution to those Commission members who consider such business matters.

If my submittal is not according to "procedures" please let me know what is required -- format, number of copies, etc. -- and I will be glad to resubmit my work.

Thank you for your help and cooperation.

Sincerely yours,



Guy A. Matzinger
503 Dubois Street
Cheney, WA 99004-1325
509-235-8381

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MAY 19 1994

FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter for

Amendment of the Commission's)	
Part 97 Rules and Regulations for)	
the Amateur Radio Service; Subpart F-)	
Qualifying Examination Systems; Section)	RM-
97.503 Element Standards, paragraph)	
(a) regarding "telegraphy examinations")	

PETITION FOR RULE MAKING

To the Commission:

INTRODUCTION

In this "Petition for Rule Making" it is proposed that those amateur radio operators 65 years of age or older be granted (if requested) an exemption from demonstrating Morse code proficiencies for speeds greater than five (5) words per minute. This proposal will help relieve some of the confusion associated with the Physician's Certification of Disability -- FCC Form 610.

This Petition presents data which supports the desire of the amateur radio community to provide the senior citizen of this country with the opportunity to completely enjoy and participate on **all bands** and **use all modes** of amateur radio. It is the senior citizen who has the knowledge, technical skills and **time** to enhance the development of future communication methods. It is the senior who can make a significant contribution towards the economic growth of this hobby. With discretionary financial assets, seniors have the ability to purchase the high tech equipment utilized by today's amateur. It is the seniors who, sharing resources with their children and grandchildren will provide the greatest growth stimulus for amateur radio.

The Commission is requested to keep in mind that the average life expectancy for seniors is: **76 years.**

DISCUSSION

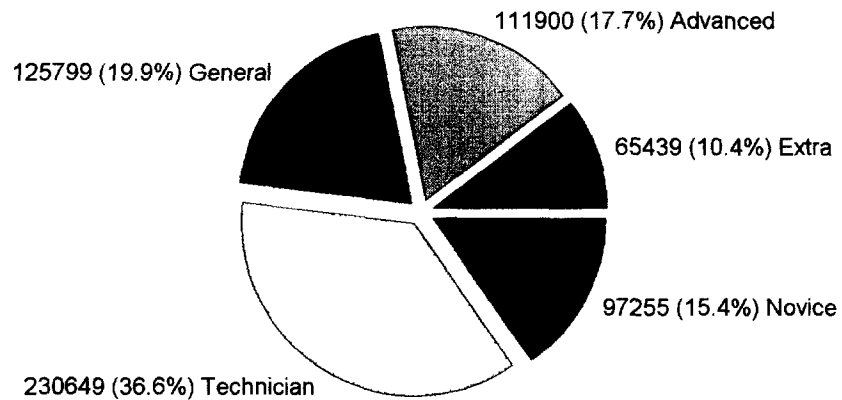
Working Paper Number 20 dated August 20, 1986 by the FCC Office of Plans and Policy is considered to require that the Commission "...periodically re-examine amateur radio service regulations and policies to determine whether they continue to serve the public interest".

Regulatory practices for amateur radio Morse code testing subscribed to by the United States are basically applications of the International Telecommunication Union (ITU) regulation RR2735 which states "...any person seeking a license to operate the apparatus of an amateur station shall prove that he is able to send correctly by hand and to receive correctly by ear text in Morse code". The ITU regulation does not address the requirement that the operator be proficient in sending code at any speed. No reference can be found in either the ITU regulation or the US agreement that precludes the ability of the Commission to provide senior citizens the **option** of requesting an exemption from testing Morse code at speeds higher than 5 words per minute.

It is not the intent of this Petition to debate the controversial issue of Morse code testing. However, the FCC has failed to define or offer any criterion for the subjective phrase "**severely handicapped**" as used in the Physician's Certification of Disability, FCC Form 610, issue of November 1993. Instead, the FCC has indicated that they will **deal harshly** with doctors who abuse the intent of this exemption -- reference Attachment A. If the doctor is recognized as the **only** qualified decision maker to judge an amateur's physical problems, why -- **after the fact** -- is that opinion challenged? **On what basis?** It would appear that the ambiguity of the Physicians Certification is deliberate and is intended to exclude and discriminate against those who because of their age may no longer be able to participate in activities with the vigilance and vigor of their youth. There are exceptions, but for the **average** person -- faculties are diminished by the aging process.

In March of this year the author of this petition (at his expense) organized a survey of amateur operators soliciting reactions to the proposal that amateurs **65 and older** be given the **option** of requesting an exemption from further Morse code testing at any speed higher than 5 words per minute. No other consideration was to be imposed on requests for the exemption other than age and the usual testing fees. The survey was conducted by computer generated random sampling of licensed amateurs in each of the ten US call areas and in each of the fifty states. Postpaid postcards were used to eliminate any costs to the solicited amateur and to encourage a response. The information furnished by the FCC Licensing Facility in Gettysburg, PA for February 1994 (page 3) served as the basis for determining the distribution of sampling within each license class. It is believed that this approach gives a 95% confidence interval that the results reflect the true desires of the total amateur population within 4 percentage points. Survey findings are shown on page 4 and the proposed "Rule Change" is on page 5.

AMATEUR RADIO OPERATORS as of Feb. '94



Amateur Licensing Statistics* February 1994

License Class	Individual Operators	% of Totals
Extra	65439	10.4
Advanced	111900	17.7
General	125799	19.9
Technician	230649	36.6
Novice	97255	15.4
Totals	631042	100.0

* information furnished by the FCC
Licensing Facility, Gettysburg, PA

FINDINGS

Age profile of surveyed amateurs

	12-30yrs	31-50yrs	51-64yrs	65yrs and Over	Aver. Age
Novice	20%	35%	20%	25%	48
Technician	14%	24	32	30%	52
General	3%	30	20	47%	59
Advanced	3%	41	28	28%	55
Extra	None Selected	32%	26%	42%	59

Results of the Survey

Question: *Should the FCC abandon the 13 and 20wpm CW tests for those 65 years old and over?*

	Novice	Technician	General	Advanced	Extra	Consensus
Support	100%	79%	59%	55%	43%	63%
Oppose	None Rec'd	21%	41%	45%	57%	37%

Comments received from respondents ranged from "code is essential in order to keep the CB herd out" to a 76 year old Extra's remark "the need to know code is as important as learning how to make a fire with rubbing sticks". Even a simple survey evokes contrasting opinions. Some were strong advocates that all code tests must be maintained in order to **limit** participation on all the amateur bands. It is hoped that the FCC does not support this "closed shop" mentality.

The results show that **the majority** of the amateur community supports the concept that those 65 and older be allowed to request an exemption from code testing above the 5 word per minute level -- if they so desire. Other petitions have addressed similar code concerns and were rejected on the alleged basis that "thousands" of opposed comments were received. Perhaps the previous objectors to code changes were those organizations who give the illusion that they represent the "majority" of licensed amateurs. With this image, these organizations have effectively lobbied to maintain the exclusivity practices of current code testing regulations as a filter to **limit** and **control** access to amateur HF bands -- to the **detriment** of amateur radio.

The following questions of interest were examined during the recent survey:

Are you a member of the American Radio Relay League (ARRL)?

Are you a member of any other club or organization?

Of those surveyed, less than twenty-five percent acknowledged membership in ARRL. The majority indicated no affiliation with any club or other amateur activity. It appears that those who would oppose this petition do so solely on the basis of discrimination, with the intent to **selectively limit** participation in the **hobby** of amateur radio. No other conclusion is reasonable. It is irrational and without logic (either technically or physically) to associate accessing certain frequencies with compulsory proficiency in **one** specific mode of communication. Passage of this proposal will provide the seniors of amateur radio the opportunity to contribute their practical knowledge and technical skills towards the continued development of communications technology -- without unreasonable restrictions.

PROPOSAL

It is proposed that the Federal Communications Commission amend Part 97 - Amateur Radio Service, Subpart F - Qualifying Examination Systems, Section 97.503 Element Standards by **adding** to Section 97.503 (a) -- a second paragraph as follows:

Those licensed amateurs who have passed Element 1(a) -- 5 words per minute -- and can document with a certified copy of their birth certificate that they have reached the age of 65 years (or older) may if so desired request an exemption from further Morse code testing. However, the examinee shall reimburse the VEs the usual test fees for each requested exemption. The fees shall be assessed for each code element the examinee seeks to exempt. No other consideration shall be imposed upon those seeking this exemption.

Implementation of this proposal will serve the public interest and will eliminate the costs and confusion that the FCC now incurs due to constantly reviewing medical certifications.

Thank you for your time and consideration. This Petition is respectfully submitted on this sixteenth day of May, 1994 by:



Guy A. Matzinger - KB7PNQ (Tech+)
503 Dubois Street
Cheney, WA 99004-1325

ATTACHMENT A

B. In order for the VE Team to convey this exemption/credit, the applicant must provide a correctly completed FCC Form 610 (which includes a PHYSICIAN'S CERTIFICATION and PATIENT'S RELEASE). To be acceptable, the 610 form must pass a review based upon the following check list:

1. On the back of the 610 form, the APPLICANT'S NAME and the DOCTOR'S SIGNATURE portions of the certification must be completed by the Physician.
2. The completed PHYSICIAN'S CERTIFICATION can only be made by Medical Doctor's (M.D.) or Doctor's of Osteopathy (D.O.) who are licensed to practice medicine in the U.S., and must contain an original signature in original penmanship. The signature can not be a signature stamp.
3. As of August 1, 1992 all certifications for 13 or 20 WPM Morse code exemption accepted by VE Teams must be made on the new 610 form (this form carries a release date of November 1993).

C. The package to be sent to the VEC must include: The applicant's 610 form (holding the completed Doctor's certification or a copy of a CSCE indicating that Element 1C handicap credit was held) which either shows elements passed at this session, or shows credit was held for the necessary written elements toward an upgrade; a license copy for the 610 form; and the standard ARRL/VEC test fee (\$5.75 for 1994), or the portion of the fee not retained by the VE Team.

If the applicant already has credit for the necessary written element(s), the new license class/upgrade earned resulting from that credit must be indicated as the new license class earned in Section 2, Item A, of the Form 610 (this handicap credit {Physician's Cert. and Release: 1C} plus any additional elements passed at your session must be indicated on the CSCE along with the resulting new license class earned).

THE CANDIDATE MUST BE GIVEN A CSCE INDICATING ELEMENT 1C HANDICAP CREDIT IF, in conjunction with the Element 1C credit from the Physician's Certification, the applicant holds any valid written element CSCE(s) or possesses a grandfathered Technician license for Element 3B credit (earned before 3/21/87), or if the candidate passes any necessary written elements toward an upgrade at your session. The FCC Form 610 with Physician's Certification and aforementioned CSCE is both valid and acceptable for 365 days from the date they were issued.

A candidate must come to your test session to upgrade, and must present a Form 610 with the completed Doctor's certification portion of his/her application. Even if the applicant does not take a test, a test fee will still be charged that applicant.

Remember, each candidate who submits a Form 610 with PHYSICIAN'S CERTIFICATION AND PATIENT'S RELEASE (in order to obtain an Element 1C handicap credit CSCE) will be charged our normal ARRL/VEC processing/test fee (\$5.75 for 1994), whether the person actually takes an exam, or not.

As you may have noticed, the PHYSICIAN'S CERTIFICATION OF DISABILITY includes reference to US Code Title 18, Section 1001. The FCC has indicated that they will deal harshly with anyone who willfully abuses the intent of these new exemption/credit rules. With the implementation of these new rules, the FCC has declined to offer a list of handicaps for reference, instead, MDs and DOs must determine on a case-by-case basis that the applicant is not able to pass a 13 or 20 WPM Morse code examination. To facilitate the FCC's oversight of these rules, the applicant's certification authorizes release of medical information to the FCC.

Sincerely and 73,

Bart J. Jahnke, KB9NM
Manager, ARRL/VEC

P.S. Please feel free to copy these instructions as needed. Let us know if you need additional 610 forms.

ARRL/VEC 3/94

